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114TH CONGRESS
1ST SESSION

H. R. 1021

[Report No. 114–46, Part I]

To amend title XVIII of the Social Security Act to improve the integrity of the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2015

Mr. BRADY of Texas (for himself, Mr. McDERMOTT, Mr. LEVIN, Mr. RANGEL, Mr. LEWIS, Mr. NEAL, Mr. SAM JOHNSON of Texas, Mr. DOGGETT, Mr. BLUMENAUER, Mr. DANNY K. DAVIS of Illinois, Mr. PASCRELL, Mr. TIBERI, Mr. NUNES, Ms. LINDA T. SÁNCHEZ of California, Mr. BOUSTANY, Mr. REICHERT, Mr. BUCHANAN, Mr. ROSKAM, Mr. SMITH of Nebraska, Mr. REED, Mrs. BLACK, Mr. KELLY of Pennsylvania, Mr. RENACCI, Mr. MEEHAN, Mr. YOUNG of Indiana, Mr. HOLDING, and Mr. CARNEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH 18, 2015

Additional sponsors: Mr. DIAZ-BALART, Mr. PAULSEN, Mrs. NOEM, Mr. RODNEY DAVIS of Illinois, and Mr. ROSS

MARCH 18, 2015

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

MARCH 18, 2015

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 24, 2015]

A BILL

To amend title XVIII of the Social Security Act to improve the integrity of the Medicare program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Pro-*
 5 *tecting the Integrity of Medicare Act of 2015”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Prohibition of inclusion of Social Security account numbers on Medicare cards.

Sec. 3. Preventing wrongful Medicare payments for items and services furnished to incarcerated individuals, individuals not lawfully present, and deceased individuals.

Sec. 4. Consideration of measures regarding Medicare beneficiary smart cards.

Sec. 5. Modifying medicare durable medical equipment face-to-face encounter documentation requirement.

Sec. 6. Reducing improper Medicare payments.

Sec. 7. Improving senior Medicare patrol and fraud reporting rewards.

Sec. 8. Requiring valid prescriber National Provider Identifiers on pharmacy claims.

Sec. 9. Option to receive Medicare Summary Notice electronically.

Sec. 10. Renewal of MAC contracts.

Sec. 11. Study on pathway for incentives to States for State participation in medicaid data match program.

Sec. 12. Programs to prevent prescription drug abuse under Medicare part D.

Sec. 13. Guidance on application of Common Rule to clinical data registries.

Sec. 14. Eliminating certain civil money penalties; gainsharing study and report.

Sec. 15. Modification of Medicare home health surety bond condition of participation requirement.

Sec. 16. Oversight of Medicare coverage of manual manipulation of the spine to correct subluxation.

Sec. 17. National expansion of prior authorization model for repetitive scheduled non-emergent ambulance transport.

Sec. 18. Repealing duplicative Medicare secondary payor provision.

Sec. 19. Plan for expanding data in annual CERT report.

Sec. 20. Removing funds for Medicare Improvement Fund added by IMPACT Act of 2014.

Sec. 21. Rule of construction.

8 **SEC. 2. PROHIBITION OF INCLUSION OF SOCIAL SECURITY**

9 **ACCOUNT NUMBERS ON MEDICARE CARDS.**

10 (a) *IN GENERAL.*—*Section 205(c)(2)(C) of the Social*
 11 *Security Act (42 U.S.C. 405(c)(2)(C)) is amended—*

1 (1) *by moving clause (x), as added by section*
 2 *1414(a)(2) of the Patient Protection and Affordable*
 3 *Care Act, 6 ems to the left;*

4 (2) *by redesignating clause (x), as added by sec-*
 5 *tion 2(a)(1) of the Social Security Number Protection*
 6 *Act of 2010, and clause (xi) as clauses (xi) and (xii),*
 7 *respectively; and*

8 (3) *by adding at the end the following new*
 9 *clause:*

10 “(xiii) *The Secretary of Health and Human Services,*
 11 *in consultation with the Commissioner of Social Security,*
 12 *shall establish cost-effective procedures to ensure that a So-*
 13 *cial Security account number (or derivative thereof) is not*
 14 *displayed, coded, or embedded on the Medicare card issued*
 15 *to an individual who is entitled to benefits under part A*
 16 *of title XVIII or enrolled under part B of title XVIII and*
 17 *that any other identifier displayed on such card is not iden-*
 18 *tifiable as a Social Security account number (or derivative*
 19 *thereof).”.*

20 (b) *IMPLEMENTATION.—In implementing clause (xiii)*
 21 *of section 205(c)(2)(C) of the Social Security Act (42 U.S.C.*
 22 *405(c)(2)(C)), as added by subsection (a)(3), the Secretary*
 23 *of Health and Human Services shall do the following:*

24 (1) *IN GENERAL.—Establish a cost-effective proc-*
 25 *ess that involves the least amount of disruption to, as*

1 *well as necessary assistance for, Medicare bene-*
2 *ficiaries and health care providers, such as a process*
3 *that provides such beneficiaries with access to assist-*
4 *ance through a toll-free telephone number and pro-*
5 *vides outreach to providers.*

6 (2) *CONSIDERATION OF MEDICARE BENEFICIARY*
7 *IDENTIFIED.—Consider implementing a process, simi-*
8 *lar to the process involving Railroad Retirement*
9 *Board beneficiaries, under which a Medicare bene-*
10 *ficiary identifier which is not a Social Security ac-*
11 *count number (or derivative thereof) is used external*
12 *to the Department of Health and Human Services*
13 *and is convertible over to a Social Security account*
14 *number (or derivative thereof) for use internal to such*
15 *Department and the Social Security Administration.*

16 (c) *FUNDING FOR IMPLEMENTATION.—For purposes of*
17 *implementing the provisions of and the amendments made*
18 *by this section, the Secretary of Health and Human Serv-*
19 *ices shall provide for the following transfers from the Fed-*
20 *eral Hospital Insurance Trust Fund under section 1817 of*
21 *the Social Security Act (42 U.S.C. 1395i) and from the*
22 *Federal Supplementary Medical Insurance Trust Fund es-*
23 *tablished under section 1841 of such Act (42 U.S.C. 1395t),*
24 *in such proportions as the Secretary determines appro-*
25 *priate:*

1 (1) *To the Centers for Medicare & Medicaid Pro-*
2 *gram Management Account, transfers of the following*
3 *amounts:*

4 (A) *For fiscal year 2015, \$65,000,000, to be*
5 *made available through fiscal year 2018.*

6 (B) *For each of fiscal years 2016 and 2017,*
7 *\$53,000,000, to be made available through fiscal*
8 *year 2018.*

9 (C) *For fiscal year 2018, \$48,000,000, to be*
10 *made available until expended.*

11 (2) *To the Social Security Administration Limi-*
12 *tation on Administration Account, transfers of the*
13 *following amounts:*

14 (A) *For fiscal year 2015, \$27,000,000, to be*
15 *made available through fiscal year 2018.*

16 (B) *For each of fiscal years 2016 and 2017,*
17 *\$22,000,000, to be made available through fiscal*
18 *year 2018.*

19 (C) *For fiscal year 2018, \$27,000,000, to be*
20 *made available until expended.*

21 (3) *To the Railroad Retirement Board Limita-*
22 *tion on Administration Account, the following*
23 *amount:*

24 (A) *For fiscal year 2015, \$3,000,000, to be*
25 *made available until expended.*

1 (d) *EFFECTIVE DATE.*—

2 (1) *IN GENERAL.*—Clause (xiii) of section
 3 205(c)(2)(C) of the Social Security Act (42 U.S.C.
 4 405(c)(2)(C)), as added by subsection (a)(3), shall
 5 apply with respect to Medicare cards issued on and
 6 after an effective date specified by the Secretary of
 7 Health and Human Services, but in no case shall
 8 such effective date be later than the date that is four
 9 years after the date of the enactment of this Act.

10 (2) *REISSUANCE.*—The Secretary shall provide
 11 for the reissuance of Medicare cards that comply with
 12 the requirements of such clause not later than four
 13 years after the effective date specified by the Secretary
 14 under paragraph (1).

15 **SEC. 3. PREVENTING WRONGFUL MEDICARE PAYMENTS**
 16 **FOR ITEMS AND SERVICES FURNISHED TO IN-**
 17 **CARCERATED INDIVIDUALS, INDIVIDUALS**
 18 **NOT LAWFULLY PRESENT, AND DECEASED IN-**
 19 **DIVIDUALS.**

20 (a) *REQUIREMENT FOR THE SECRETARY TO ESTAB-*
 21 *LISH POLICIES AND CLAIMS EDITS RELATING TO INCAR-*
 22 *CERATED INDIVIDUALS, INDIVIDUALS NOT LAWFULLY*
 23 *PRESENT, AND DECEASED INDIVIDUALS.*—Section 1874 of
 24 the Social Security Act (42 U.S.C. 1395kk) is amended by
 25 adding at the end the following new subsection:

1 “(f) *REQUIREMENT FOR THE SECRETARY TO ESTAB-*
 2 *LISH POLICIES AND CLAIMS EDITS RELATING TO INCAR-*
 3 *CERATED INDIVIDUALS, INDIVIDUALS NOT LAWFULLY*
 4 *PRESENT, AND DECEASED INDIVIDUALS.*—*The Secretary*
 5 *shall establish and maintain procedures, including proce-*
 6 *dures for using claims processing edits, updating eligibility*
 7 *information to improve provider accessibility, and con-*
 8 *ducting recoupment activities such as through recovery*
 9 *audit contractors, in order to ensure that payment is not*
 10 *made under this title for items and services furnished to*
 11 *an individual who is one of the following:*

12 “(1) *An individual who is incarcerated.*

13 “(2) *An individual who is not lawfully present*
 14 *in the United States and who is not eligible for cov-*
 15 *erage under this title.*

16 “(3) *A deceased individual.*”.

17 (b) *REPORT.*—*Not later than 18 months after the date*
 18 *of the enactment of this section, and periodically thereafter*
 19 *as determined necessary by the Office of Inspector General*
 20 *of the Department of Health and Human Services, such Of-*
 21 *fice shall submit to Congress a report on the activities de-*
 22 *scribed in subsection (f) of section 1874 of the Social Secu-*
 23 *rity Act (42 U.S.C. 1395kk), as added by subparagraph (a),*
 24 *that have been conducted since such date of enactment.*

1 **SEC. 4. CONSIDERATION OF MEASURES REGARDING MEDI-**
2 **CARE BENEFICIARY SMART CARDS.**

3 *To the extent the Secretary of Health and Human*
4 *Services determines that it is cost effective and techno-*
5 *logically viable to use electronic Medicare beneficiary and*
6 *provider cards (such as cards that use smart card tech-*
7 *nology, including an embedded and secure integrated cir-*
8 *cuit chip), as presented in the Government Accountability*
9 *Office report required by the conference report accom-*
10 *panying the Consolidated Appropriations Act, 2014 (Public*
11 *Law 113–76), the Secretary shall consider such measures*
12 *as determined appropriate by the Secretary to implement*
13 *such use of such cards for beneficiary and provider use*
14 *under title XVIII of the Social Security Act (42 U.S.C.*
15 *1395 et seq.). In the case that the Secretary considers meas-*
16 *ures under the preceding sentence, the Secretary shall sub-*
17 *mit to the Committees on Ways and Means and on Energy*
18 *and Commerce of the House of Representatives, and to the*
19 *Committee on Finance of the Senate, a report outlining the*
20 *considerations undertaken by the Secretary under such sen-*
21 *tence.*

1 **SEC. 5. MODIFYING MEDICARE DURABLE MEDICAL EQUIP-**
 2 **MENT FACE-TO-FACE ENCOUNTER DOCU-**
 3 **MENTATION REQUIREMENT.**

4 (a) *IN GENERAL.*—Section 1834(a)(11)(B)(ii) of the
 5 Social Security Act (42 U.S.C. 1395m(a)(11)(B)(ii)) is
 6 amended—

7 (1) by striking “the physician documenting
 8 that”; and

9 (2) by striking “has had a face-to-face encoun-
 10 ter” and inserting “documenting such physician, phy-
 11 sician assistant, practitioner, or specialist has had a
 12 face-to-face encounter”.

13 (b) *IMPLEMENTATION.*—Notwithstanding any other
 14 provision of law, the Secretary of Health and Human Serv-
 15 ices may implement the amendments made by subsection
 16 (a) by program instruction or otherwise.

17 **SEC. 6. REDUCING IMPROPER MEDICARE PAYMENTS.**

18 (a) *MEDICARE ADMINISTRATIVE CONTRACTOR IM-*
 19 *PROPER PAYMENT OUTREACH AND EDUCATION PRO-*
 20 *GRAM.*—

21 (1) *IN GENERAL.*—Section 1874A of the Social
 22 Security Act (42 U.S.C. 1395kk–1) is amended—

23 (A) in subsection (a)(4)—

24 (i) by redesignating subparagraph (G)
 25 as subparagraph (H); and

1 (ii) by inserting after subparagraph
2 (F) the following new subparagraph:

3 “(G) *IMPROPER PAYMENT OUTREACH AND*
4 *EDUCATION PROGRAM.—Having in place an im-*
5 *proper payment outreach and education pro-*
6 *gram described in subsection (h).”; and*

7 (B) by adding at the end the following new
8 subsection:

9 “(h) *IMPROPER PAYMENT OUTREACH AND EDUCATION*
10 *PROGRAM.—*

11 “(1) *IN GENERAL.—In order to reduce improper*
12 *payments under this title, each medicare administra-*
13 *tive contractor shall establish and have in place an*
14 *improper payment outreach and education program*
15 *under which the contractor, through outreach, edu-*
16 *cation, training, and technical assistance or other ac-*
17 *tivities, shall provide providers of services and sup-*
18 *pliers located in the region covered by the contract*
19 *under this section with the information described in*
20 *paragraph (2). The activities described in the pre-*
21 *ceding sentence shall be conducted on a regular basis.*

22 “(2) *INFORMATION TO BE PROVIDED THROUGH*
23 *ACTIVITIES.—The information to be provided under*
24 *such payment outreach and education program shall*
25 *include information the Secretary determines to be*

1 *appropriate which may include the following infor-*
2 *mation:*

3 “(A) *A list of the providers’ or suppliers’*
4 *most frequent and expensive payment errors over*
5 *the last quarter.*

6 “(B) *Specific instructions regarding how to*
7 *correct or avoid such errors in the future.*

8 “(C) *A notice of new topics that have been*
9 *approved by the Secretary for audits conducted*
10 *by recovery audit contractors under section*
11 *1893(h).*

12 “(D) *Specific instructions to prevent future*
13 *issues related to such new audits.*

14 “(E) *Other information determined appro-*
15 *priate by the Secretary.*

16 “(3) *PRIORITY.—A medicare administrative con-*
17 *tractor shall give priority to activities under such*
18 *program that will reduce improper payments that are*
19 *one or more of the following:*

20 “(A) *Are for items and services that have*
21 *the highest rate of improper payment.*

22 “(B) *Are for items and service that have the*
23 *greatest total dollar amount of improper pay-*
24 *ments.*

1 “(C) *Are due to clear misapplication or*
2 *misinterpretation of Medicare policies.*

3 “(D) *Are clearly due to common and inad-*
4 *vertent clerical or administrative errors.*

5 “(E) *Are due to other types of errors that*
6 *the Secretary determines could be prevented*
7 *through activities under the program.*

8 “(4) *INFORMATION ON IMPROPER PAYMENTS*
9 *FROM RECOVERY AUDIT CONTRACTORS.—*

10 “(A) *IN GENERAL.—In order to assist medi-*
11 *care administrative contractors in carrying out*
12 *improper payment outreach and education pro-*
13 *grams, the Secretary shall provide each con-*
14 *tractor with a complete list of the types of im-*
15 *proper payments identified by recovery audit*
16 *contractors under section 1893(h) with respect to*
17 *providers of services and suppliers located in the*
18 *region covered by the contract under this section.*
19 *Such information shall be provided on a time*
20 *frame the Secretary determines appropriate*
21 *which may be on a quarterly basis.*

22 “(B) *INFORMATION.—The information de-*
23 *scribed in subparagraph (A) shall include infor-*
24 *mation such as the following:*

1 “(i) *Providers of services and suppliers*
 2 *that have the highest rate of improper pay-*
 3 *ments.*

4 “(ii) *Providers of services and sup-*
 5 *pliers that have the greatest total dollar*
 6 *amounts of improper payments.*

7 “(iii) *Items and services furnished in*
 8 *the region that have the highest rates of im-*
 9 *proper payments.*

10 “(iv) *Items and services furnished in*
 11 *the region that are responsible for the great-*
 12 *est total dollar amount of improper pay-*
 13 *ments.*

14 “(v) *Other information the Secretary*
 15 *determines would assist the contractor in*
 16 *carrying out the program.*

17 “(5) *COMMUNICATIONS.—Communications with*
 18 *providers of services and suppliers under an improper*
 19 *payment outreach and education program are subject*
 20 *to the standards and requirements of subsection (g).”.*

21 “(b) *USE OF CERTAIN FUNDS RECOVERED BY RACS.—*
 22 *Section 1893(h) of the Social Security Act (42 U.S.C.*
 23 *1395ddd(h)) is amended—*

24 (1) *in paragraph (2), by inserting “or para-*
 25 *graph (10)” after “paragraph (1)(C)”;* and

1 (2) *by adding at the end the following new para-*
2 *graph:*

3 “(10) *USE OF CERTAIN RECOVERED FUNDS.—*

4 “(A) *IN GENERAL.—After application of*
5 *paragraph (1)(C), the Secretary shall retain a*
6 *portion of the amounts recovered by recovery*
7 *audit contractors for each year under this section*
8 *which shall be available to the program manage-*
9 *ment account of the Centers for Medicare & Med-*
10 *icaid Services for purposes of, subject to subpara-*
11 *graph (B), carrying out sections 1833(z),*
12 *1834(l)(16), and 1874A(a)(4)(G), carrying out*
13 *section 16(b) of the Protecting the Integrity of*
14 *Medicare Act of 2015, and implementing strate-*
15 *gies (such as claims processing edits) to help re-*
16 *duce the error rate of payments under this title.*
17 *The amounts retained under the preceding sen-*
18 *tence shall not exceed an amount equal to 15*
19 *percent of the amounts recovered under this sub-*
20 *section, and shall remain available until ex-*
21 *pended.*

22 “(B) *LIMITATION.—Except for uses that*
23 *support claims processing (including edits) or*
24 *system functionality for detecting fraud,*
25 *amounts retained under subparagraph (A) may*

1 *not be used for technological-related infrastruc-*
 2 *ture, capital investments, or information sys-*
 3 *tems.*

4 “(C) *NO REDUCTION IN PAYMENTS TO RE-*
 5 *COVERY AUDIT CONTRACTORS.—Nothing in sub-*
 6 *paragraph (A) shall reduce amounts available*
 7 *for payments to recovery audit contractors under*
 8 *this subsection.”.*

9 **SEC. 7. IMPROVING SENIOR MEDICARE PATROL AND FRAUD**
 10 **REPORTING REWARDS.**

11 (a) *IN GENERAL.—The Secretary of Health and*
 12 *Human Services (in this section referred to as the “Sec-*
 13 *retary”)* shall develop a plan to revise the incentive pro-
 14 *gram under section 203(b) of the Health Insurance Port-*
 15 *ability and Accountability Act of 1996 (42 U.S.C. 1395b-*
 16 *5(b)) to encourage greater participation by individuals to*
 17 *report fraud and abuse in the Medicare program. Such plan*
 18 *shall include recommendations for—*

19 (1) *ways to enhance rewards for individuals re-*
 20 *porting under the incentive program, including re-*
 21 *wards based on information that leads to an adminis-*
 22 *trative action; and*

23 (2) *extending the incentive program to the Med-*
 24 *icaid program.*

1 (b) *PUBLIC AWARENESS AND EDUCATION CAM-*
 2 *PAIGN.*—*The plan developed under subsection (a) shall also*
 3 *include recommendations for the use of the Senior Medicare*
 4 *Patrols authorized under section 411 of the Older Ameri-*
 5 *cans Act of 1965 (42 U.S.C. 3032) to conduct a public*
 6 *awareness and education campaign to encourage participa-*
 7 *tion in the revised incentive program under subsection (a).*

8 (c) *SUBMISSION OF PLAN.*—*Not later than 180 days*
 9 *after the date of enactment of this Act, the Secretary shall*
 10 *submit to Congress the plan developed under subsection (a).*

11 **SEC. 8. REQUIRING VALID PRESCRIBER NATIONAL PRO-**
 12 **VIDER IDENTIFIERS ON PHARMACY CLAIMS.**

13 *Section 1860D–4(c) of the Social Security Act (42*
 14 *U.S.C. 1395w–104(c)) is amended by adding at the end the*
 15 *following new paragraph:*

16 “(4) *REQUIRING VALID PRESCRIBER NATIONAL*
 17 *PROVIDER IDENTIFIERS ON PHARMACY CLAIMS.*—

18 “(A) *IN GENERAL.*—*For plan year 2016*
 19 *and subsequent plan years, the Secretary shall*
 20 *require a claim for a covered part D drug for a*
 21 *part D eligible individual enrolled in a prescrip-*
 22 *tion drug plan under this part or an MA-PD*
 23 *plan under part C to include a prescriber Na-*
 24 *tional Provider Identifier that is determined to*

1 *be valid under the procedures established under*
2 *subparagraph (B)(i).*

3 “(B) *PROCEDURES.*—

4 “(i) *VALIDITY OF PRESCRIBER NA-*
5 *TIONAL PROVIDER IDENTIFIERS.*—*The Sec-*
6 *retary, in consultation with appropriate*
7 *stakeholders, shall establish procedures for*
8 *determining the validity of prescriber Na-*
9 *tional Provider Identifiers under subpara-*
10 *graph (A).*

11 “(ii) *INFORMING BENEFICIARIES OF*
12 *REASON FOR DENIAL.*—*The Secretary shall*
13 *establish procedures to ensure that, in the*
14 *case that a claim for a covered part D drug*
15 *of an individual described in subparagraph*
16 *(A) is denied because the claim does not*
17 *meet the requirements of this paragraph, the*
18 *individual is properly informed at the point*
19 *of service of the reason for the denial.*

20 “(C) *REPORT.*—*Not later than January 1,*
21 *2018, the Inspector General of the Department of*
22 *Health and Human Services shall submit to*
23 *Congress a report on the effectiveness of the pro-*
24 *cedures established under subparagraph (B)(i).”.*

1 **SEC. 9. OPTION TO RECEIVE MEDICARE SUMMARY NOTICE**
2 **ELECTRONICALLY.**

3 (a) *IN GENERAL.*—Section 1806 of the Social Security
4 Act (42 U.S.C. 1395b–7) is amended by adding at the end
5 the following new subsection:

6 “(c) *FORMAT OF STATEMENTS FROM SECRETARY.*—

7 “(1) *ELECTRONIC OPTION BEGINNING IN 2016.*—
8 Subject to paragraph (2), for statements described in
9 subsection (a) that are furnished for a period in 2016
10 or a subsequent year, in the case that an individual
11 described in subsection (a) elects, in accordance with
12 such form, manner, and time specified by the Sec-
13 retary, to receive such statement in an electronic for-
14 mat, such statement shall be furnished to such indi-
15 vidual for each period subsequent to such election in
16 such a format and shall not be mailed to the indi-
17 vidual.

18 “(2) *LIMITATION ON REVOCATION OPTION.*—

19 “(A) *IN GENERAL.*—Subject to subpara-
20 graph (B), the Secretary may determine a max-
21 imum number of elections described in para-
22 graph (1) by an individual that may be revoked
23 by the individual.

24 “(B) *MINIMUM OF ONE REVOCATION OP-*
25 *TION.*—In no case may the Secretary determine

1 *a maximum number under subparagraph (A)*
2 *that is less than one.*

3 “(3) *NOTIFICATION.—The Secretary shall ensure*
4 *that, in the most cost effective manner and beginning*
5 *January 1, 2017, a clear notification of the option to*
6 *elect to receive statements described in subsection (a)*
7 *in an electronic format is made available, such as*
8 *through the notices distributed under section 1804, to*
9 *individuals described in subsection (a).”.*

10 *(b) ENCOURAGED EXPANSION OF ELECTRONIC STATE-*
11 *MENTS.—To the extent to which the Secretary of Health and*
12 *Human Services determines appropriate, the Secretary*
13 *shall—*

14 *(1) apply an option similar to the option de-*
15 *scribed in subsection (c)(1) of section 1806 of the So-*
16 *cial Security Act (42 U.S.C. 1395b–7) (relating to the*
17 *provision of the Medicare Summary Notice in an elec-*
18 *tronic format), as added by subsection (a), to other*
19 *statements and notifications under title XVIII of such*
20 *Act (42 U.S.C. 1395 et seq.); and*

21 *(2) provide such Medicare Summary Notice and*
22 *any such other statements and notifications on a*
23 *more frequent basis than is otherwise required under*
24 *such title.*

1 **SEC. 10. RENEWAL OF MAC CONTRACTS.**

2 (a) *IN GENERAL.*—Section 1874A(b)(1)(B) of the So-
3 cial Security Act (42 U.S.C. 1395kk–1(b)(1)(B)) is amend-
4 ed by striking “5 years” and inserting “10 years”.

5 (b) *APPLICATION.*—The amendments made by sub-
6 section (a) shall apply to contracts entered into on or after,
7 and to contracts in effect as of, the date of the enactment
8 of this Act.

9 (c) *CONTRACTOR PERFORMANCE TRANSPARENCY.*—
10 Section 1874A(b)(3)(A) of the Social Security Act (42
11 U.S.C. 1395kk–1(b)(3)(A)) is amended by adding at the end
12 the following new clause:

13 “(iv) *CONTRACTOR PERFORMANCE*
14 *TRANSPARENCY.*—To the extent possible
15 without compromising the process for enter-
16 ing into and renewing contracts with medi-
17 care administrative contractors under this
18 section, the Secretary shall make available
19 to the public the performance of each medi-
20 care administrative contractor with respect
21 to such performance requirements and
22 measurement standards.”.

1 **SEC. 11. STUDY ON PATHWAY FOR INCENTIVES TO STATES**
 2 **FOR STATE PARTICIPATION IN MEDICAID**
 3 **DATA MATCH PROGRAM.**

4 *Section 1893(g) of the Social Security Act (42 U.S.C.*
 5 *1395ddd(g)) is amended by adding at the end the following*
 6 *new paragraph:*

7 *“(3) INCENTIVES FOR STATES.—The Secretary*
 8 *shall study and, as appropriate, may specify incen-*
 9 *tives for States to work with the Secretary for the*
 10 *purposes described in paragraph (1)(A)(ii). The ap-*
 11 *plication of the previous sentence may include use of*
 12 *the waiver authority described in paragraph (2).”.*

13 **SEC. 12. PROGRAMS TO PREVENT PRESCRIPTION DRUG**
 14 **ABUSE UNDER MEDICARE PART D.**

15 *(a) DRUG MANAGEMENT PROGRAM FOR AT-RISK*
 16 *BENEFICIARIES.—*

17 *(1) IN GENERAL.—Section 1860D–4(c) of the So-*
 18 *cial Security Act (42 U.S.C. 1395w–10(c)), as amend-*
 19 *ed by section 8, is further amended by adding at the*
 20 *end the following:*

21 *“(5) DRUG MANAGEMENT PROGRAM FOR AT-RISK*
 22 *BENEFICIARIES.—*

23 *“(A) AUTHORITY TO ESTABLISH.—A PDP*
 24 *sponsor may establish a drug management pro-*
 25 *gram for at-risk beneficiaries under which, sub-*
 26 *ject to subparagraph (B), the PDP sponsor may,*

1 *in the case of an at-risk beneficiary for prescrip-*
 2 *tion drug abuse who is an enrollee in a prescrip-*
 3 *tion drug plan of such PDP sponsor, limit such*
 4 *beneficiary's access to coverage for frequently*
 5 *abused drugs under such plan to frequently*
 6 *abused drugs that are prescribed for such bene-*
 7 *ficiary by a prescriber selected under subpara-*
 8 *graph (D), and dispensed for such beneficiary by*
 9 *a pharmacy selected under such subparagraph.*

10 *“(B) REQUIREMENT FOR NOTICES.—*

11 *“(i) IN GENERAL.—A PDP sponsor*
 12 *may not limit the access of an at-risk bene-*
 13 *ficiary for prescription drug abuse to cov-*
 14 *erage for frequently abused drugs under a*
 15 *prescription drug plan until such sponsor—*

16 *“(I) provides to the beneficiary an*
 17 *initial notice described in clause (ii)*
 18 *and a second notice described in clause*
 19 *(iii); and*

20 *“(II) verifies with the providers of*
 21 *the beneficiary that the beneficiary is*
 22 *an at-risk beneficiary for prescription*
 23 *drug abuse.*

1 “(ii) *INITIAL NOTICE.*—*An initial no-*
2 *tice described in this clause is a notice that*
3 *provides to the beneficiary—*

4 “(I) *notice that the PDP sponsor*
5 *has identified the beneficiary as poten-*
6 *tially being an at-risk beneficiary for*
7 *prescription drug abuse;*

8 “(II) *information describing all*
9 *State and Federal public health re-*
10 *sources that are designed to address*
11 *prescription drug abuse to which the*
12 *beneficiary has access, including men-*
13 *tal health services and other counseling*
14 *services;*

15 “(III) *notice of, and information*
16 *about, the right of the beneficiary to*
17 *appeal such identification under sub-*
18 *section (h) and the option of an auto-*
19 *matic escalation to external review;*

20 “(IV) *a request for the beneficiary*
21 *to submit to the PDP sponsor pref-*
22 *erences for which prescribers and phar-*
23 *macies the beneficiary would prefer the*
24 *PDP sponsor to select under subpara-*
25 *graph (D) in the case that the bene-*

1 *ficiary is identified as an at-risk bene-*
2 *ficiary for prescription drug abuse as*
3 *described in clause (iii)(I);*

4 *“(V) an explanation of the mean-*
5 *ing and consequences of the identifica-*
6 *tion of the beneficiary as potentially*
7 *being an at-risk beneficiary for pre-*
8 *scription drug abuse, including an ex-*
9 *planation of the drug management*
10 *program established by the PDP spon-*
11 *sor pursuant to subparagraph (A);*

12 *“(VI) clear instructions that ex-*
13 *plain how the beneficiary can contact*
14 *the PDP sponsor in order to submit to*
15 *the PDP sponsor the preferences de-*
16 *scribed in subclause (IV) and any*
17 *other communications relating to the*
18 *drug management program for at-risk*
19 *beneficiaries established by the PDP*
20 *sponsor; and*

21 *“(VII) contact information for*
22 *other organizations that can provide*
23 *the beneficiary with assistance regard-*
24 *ing such drug management program*
25 *(similar to the information provided*

1 *by the Secretary in other standardized*
2 *notices provided to part D eligible in-*
3 *dividuals enrolled in prescription drug*
4 *plans under this part).*

5 “(iii) *SECOND NOTICE.—A second no-*
6 *tice described in this clause is a notice that*
7 *provides to the beneficiary notice—*

8 “(I) *that the PDP sponsor has*
9 *identified the beneficiary as an at-risk*
10 *beneficiary for prescription drug abuse;*

11 “(II) *that such beneficiary is sub-*
12 *ject to the requirements of the drug*
13 *management program for at-risk bene-*
14 *ficiaries established by such PDP spon-*
15 *sor for such plan;*

16 “(III) *of the prescriber and phar-*
17 *macy selected for such individual*
18 *under subparagraph (D);*

19 “(IV) *of, and information about,*
20 *the beneficiary’s right to appeal such*
21 *identification under subsection (h) and*
22 *the option of an automatic escalation*
23 *to external review;*

24 “(V) *that the beneficiary can, in*
25 *the case that the beneficiary has not*

1 *previously submitted to the PDP spon-*
2 *sor preferences for which prescribers*
3 *and pharmacies the beneficiary would*
4 *prefer the PDP sponsor select under*
5 *subparagraph (D), submit such pref-*
6 *erences to the PDP sponsor; and*

7 *“(VI) that includes clear instruc-*
8 *tions that explain how the beneficiary*
9 *can contact the PDP sponsor.*

10 *“(iv) TIMING OF NOTICES.—*

11 *“(I) IN GENERAL.—Subject to*
12 *subclause (II), a second notice de-*
13 *scribed in clause (iii) shall be provided*
14 *to the beneficiary on a date that is not*
15 *less than 60 days after an initial no-*
16 *tice described in clause (ii) is provided*
17 *to the beneficiary.*

18 *“(II) EXCEPTION.—In the case*
19 *that the PDP sponsor, in conjunction*
20 *with the Secretary, determines that*
21 *concerns identified through rulemaking*
22 *by the Secretary regarding the health*
23 *or safety of the beneficiary or regard-*
24 *ing significant drug diversion activi-*
25 *ties require the PDP sponsor to pro-*

1 *vide a second notice described in clause*
 2 *(iii) to the beneficiary on a date that*
 3 *is earlier than the date described in*
 4 *subclause (II), the PDP sponsor may*
 5 *provide such second notice on such ear-*
 6 *lier date.*

7 “(C) *AT-RISK BENEFICIARY FOR PRESCRIP-*
 8 *TION DRUG ABUSE.—*

9 “(i) *IN GENERAL.—For purposes of*
 10 *this paragraph, the term ‘at-risk beneficiary*
 11 *for prescription drug abuse’ means a part*
 12 *D eligible individual who is not an exempt-*
 13 *ed individual described in clause (ii) and—*

14 “(I) *who is identified through the*
 15 *use of clinical guidelines developed by*
 16 *the Secretary in consultation with*
 17 *PDP sponsors and other stakeholders*
 18 *described in section 12(f)(2)(A) of the*
 19 *Protecting the Integrity of Medicare*
 20 *Act of 2015; or*

21 “(II) *with respect to whom the*
 22 *PDP sponsor of a prescription drug*
 23 *plan, upon enrolling such individual*
 24 *in such plan, received notice from the*
 25 *Secretary that such individual was*

1 *identified under this paragraph to be*
 2 *an at-risk beneficiary for prescription*
 3 *drug abuse under the prescription drug*
 4 *plan in which such individual was*
 5 *most recently previously enrolled and*
 6 *such identification has not been termi-*
 7 *nated under subparagraph (F).*

8 “(ii) *EXEMPTED INDIVIDUAL DE-*
 9 *SCRIBED.—An exempted individual de-*
 10 *scribed in this clause is an individual*
 11 *who—*

12 *“(I) receives hospice care under*
 13 *this title; or*

14 *“(II) the Secretary elects to treat*
 15 *as an exempted individual for purposes*
 16 *of clause (i).*

17 “(D) *SELECTION OF PRESCRIBERS.—*

18 “(i) *IN GENERAL.—With respect to*
 19 *each at-risk beneficiary for prescription*
 20 *drug abuse enrolled in a prescription drug*
 21 *plan offered by such sponsor, a PDP spon-*
 22 *sor shall, based on the preferences submitted*
 23 *to the PDP sponsor by the beneficiary pur-*
 24 *suant to clauses (ii)(IV) and (iii)(V) of sub-*
 25 *paragraph (B), select—*

1 “(I) one or more individuals who
2 are authorized to prescribe frequently
3 abused drugs (referred to in this para-
4 graph as ‘prescribers’) who may write
5 prescriptions for such drugs for such
6 beneficiary; and

7 “(II) one or more pharmacies that
8 may dispense such drugs to such bene-
9 ficiary.

10 “(ii) *REASONABLE ACCESS*.—In mak-
11 ing the selection under this subparagraph, a
12 PDP sponsor shall ensure that the bene-
13 ficiary continues to have reasonable access
14 to drugs described in subparagraph (G),
15 taking into account geographic location,
16 beneficiary preference, impact on cost-shar-
17 ing, and reasonable travel time.

18 “(iii) *BENEFICIARY PREFERENCES*.—

19 “(I) *IN GENERAL*.—If an at-risk
20 beneficiary for prescription drug abuse
21 submits preferences for which in-net-
22 work prescribers and pharmacies the
23 beneficiary would prefer the PDP
24 sponsor select in response to a notice

1 under subparagraph (B), the PDP
2 sponsor shall—

3 “(aa) review such pref-
4 erences;

5 “(bb) select or change the se-
6 lection of a prescriber or phar-
7 macy for the beneficiary based on
8 such preferences; and

9 “(cc) inform the beneficiary
10 of such selection or change of se-
11 lection.

12 “(II) EXCEPTION.—In the case
13 that the PDP sponsor determines that
14 a change to the selection of a prescriber
15 or pharmacy under item (bb) by the
16 PDP sponsor is contributing or would
17 contribute to prescription drug abuse
18 or drug diversion by the beneficiary,
19 the PDP sponsor may change the selec-
20 tion of a prescriber or pharmacy for
21 the beneficiary without regard to the
22 preferences of the beneficiary described
23 in subclause (I).

24 “(iv) CONFIRMATION.—Before selecting
25 a prescriber or pharmacy under this sub-

1 paragraph, a PDP sponsor must request
2 and receive confirmation from the pre-
3 scriber or pharmacy acknowledging and ac-
4 cepting that the beneficiary involved is in
5 the drug management program for at-risk
6 beneficiaries.

7 “(E) TERMINATIONS AND APPEALS.—The
8 identification of an individual as an at-risk ben-
9 eficiary for prescription drug abuse under this
10 paragraph, a coverage determination made
11 under a drug management program for at-risk
12 beneficiaries, and the selection of a prescriber or
13 pharmacy under subparagraph (D) with respect
14 to such individual shall be subject to reconsider-
15 ation and appeal under subsection (h) and the
16 option of an automatic escalation to external re-
17 view to the extent provided by the Secretary.

18 “(F) TERMINATION OF IDENTIFICATION.—

19 “(i) IN GENERAL.—The Secretary shall
20 develop standards for the termination of
21 identification of an individual as an at-risk
22 beneficiary for prescription drug abuse
23 under this paragraph. Under such stand-
24 ards such identification shall terminate as
25 of the earlier of—

1 “(I) the date the individual dem-
2 onstrates that the individual is no
3 longer likely, in the absence of the re-
4 strictions under this paragraph, to be
5 an at-risk beneficiary for prescription
6 drug abuse described in subparagraph
7 (C)(i); or

8 “(II) the end of such maximum
9 period of identification as the Sec-
10 retary may specify.

11 “(ii) *RULE OF CONSTRUCTION.*—Noth-
12 ing in clause (i) shall be construed as pre-
13 venting a plan from identifying an indi-
14 vidual as an at-risk beneficiary for pre-
15 scription drug abuse under subparagraph
16 (C)(i) after such termination on the basis of
17 additional information on drug use occur-
18 ring after the date of notice of such termi-
19 nation.

20 “(G) *FREQUENTLY ABUSED DRUG.*—For
21 purposes of this subsection, the term ‘frequently
22 abused drug’ means a drug that is determined by
23 the Secretary to be frequently abused or diverted
24 and that is—

1 “(i) a Controlled Drug Substance in
2 Schedule CII; or

3 “(ii) within the same class or category
4 of drugs as a Controlled Drug Substance in
5 Schedule CII, as determined through notice
6 and comment rulemaking.

7 “(H) DATA DISCLOSURE.—In the case of an
8 at-risk beneficiary for prescription drug abuse
9 whose access to coverage for frequently abused
10 drugs under a prescription drug plan has been
11 limited by a PDP sponsor under this paragraph,
12 such PDP sponsor shall disclose data, including
13 any necessary individually identifiable health
14 information, in a form and manner specified by
15 the Secretary, about the decision to impose such
16 limitations and the limitations imposed by the
17 sponsor under this part.

18 “(I) EDUCATION.—The Secretary shall pro-
19 vide education to enrollees in prescription drug
20 plans of PDP sponsors and providers regarding
21 the drug management program for at-risk bene-
22 ficiaries described in this paragraph, including
23 education—

24 “(i) provided by medicare administra-
25 tive contractors through the improper pay-

ment outreach and education program described in section 1874A(h); and

“(ii) through current education efforts (such as State health insurance assistance programs described in subsection (a)(1)(A) of section 119 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1395b–3 note)) and materials directed toward such enrollees.”.

(2) *INFORMATION FOR CONSUMERS.*—Section 1860D–4(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–104(a)(1)(B)) is amended by adding at the end the following:

“(v) The drug management program for at-risk beneficiaries under subsection (c)(5).”.

(b) *UTILIZATION MANAGEMENT PROGRAMS.*—Section 1860D–4(c) of the Social Security Act (42 U.S.C. 1395w–104(c)), as amended by subsection (a)(1) and section 8, is further amended—

(1) in paragraph (1), by inserting after subparagraph (D) the following new subparagraph:

“(E) A utilization management tool to prevent drug abuse (as described in paragraph (6)(A)).”; and

1 (2) *by adding at the end the following new para-*
2 *graph:*

3 “(6) *UTILIZATION MANAGEMENT TOOL TO PRE-*
4 *VENT DRUG ABUSE.—*

5 “(A) *IN GENERAL.—A tool described in this*
6 *paragraph is any of the following:*

7 “(i) *A utilization tool designed to pre-*
8 *vent the abuse of frequently abused drugs by*
9 *individuals and to prevent the diversion of*
10 *such drugs at pharmacies.*

11 “(ii) *Retrospective utilization review to*
12 *identify—*

13 “(I) *individuals that receive fre-*
14 *quently abused drugs at a frequency or*
15 *in amounts that are not clinically ap-*
16 *propriate; and*

17 “(II) *providers of services or sup-*
18 *pliers that may facilitate the abuse or*
19 *diversion of frequently abused drugs by*
20 *beneficiaries.*

21 “(iii) *Consultation with the Contractor*
22 *described in subparagraph (B) to verify if*
23 *an individual enrolling in a prescription*
24 *drug plan offered by a PDP sponsor has*
25 *been previously identified by another PDP*

1 sponsor as an individual described in clause
2 (ii)(I).

3 “(B) *REPORTING.*—A PDP sponsor offering
4 a prescription drug plan in a State shall submit
5 to the Secretary and the Medicare drug integrity
6 contractor with which the Secretary has entered
7 into a contract under section 1893 with respect
8 to such State a report, on a monthly basis, con-
9 taining information on—

10 “(i) any provider of services or sup-
11 plier described in subparagraph (A)(ii)(II)
12 that is identified by such plan sponsor dur-
13 ing the 30-day period before such report is
14 submitted; and

15 “(ii) the name and prescription
16 records of individuals described in para-
17 graph (5)(C).”.

18 (c) *EXPANDING ACTIVITIES OF MEDICARE DRUG IN-*
19 *TEGRITY CONTRACTORS (MEDICS).*—Section 1893 of the
20 Social Security Act (42 U.S.C. 1395ddd) is amended by
21 adding at the end the following new subsection:

22 “(j) *EXPANDING ACTIVITIES OF MEDICARE DRUG IN-*
23 *TEGRITY CONTRACTORS (MEDICS).*—

24 “(1) *ACCESS TO INFORMATION.*—Under contracts
25 entered into under this section with Medicare drug

1 *integrity contractors, the Secretary shall authorize*
 2 *such contractors to directly accept prescription and*
 3 *necessary medical records from entities such as phar-*
 4 *macies, prescription drug plans, and physicians with*
 5 *respect to an individual in order for such contractors*
 6 *to provide information relevant to the determination*
 7 *of whether such individual is an at-risk beneficiary*
 8 *for prescription drug abuse, as defined in section*
 9 *1860D-4(c)(5)(C).*

10 *“(2) REQUIREMENT FOR ACKNOWLEDGMENT OF*
 11 *REFERRALS.—If a PDP sponsor refers information to*
 12 *a contractor described in paragraph (1) in order for*
 13 *such contractor to assist in the determination de-*
 14 *scribed in such paragraph, the contractor shall—*

15 *“(A) acknowledge to the PDP sponsor re-*
 16 *ceipt of the referral; and*

17 *“(B) in the case that any PDP sponsor con-*
 18 *tacts the contractor requesting to know the deter-*
 19 *mination by the contractor of whether or not an*
 20 *individual has been determined to be an indi-*
 21 *vidual described such paragraph, shall inform*
 22 *such PDP sponsor of such determination on a*
 23 *date that is not later than 15 days after the date*
 24 *on which the PDP sponsor contacts the con-*
 25 *tractor.*

1 “(3) *MAKING DATA AVAILABLE TO OTHER ENTI-*
2 *TIES.*—

3 “(A) *IN GENERAL.*—*For purposes of car-*
4 *rying out this subsection, subject to subpara-*
5 *graph (B), the Secretary shall authorize MED-*
6 *ICs to respond to requests for information from*
7 *PDP sponsors, State prescription drug moni-*
8 *toring programs, and other entities delegated by*
9 *PDP sponsors using available programs and sys-*
10 *tems in the effort to prevent fraud, waste, and*
11 *abuse.*

12 “(B) *HIPAA COMPLIANT INFORMATION*
13 *ONLY.*—*Information may only be disclosed by a*
14 *MEDIC under subparagraph (A) if the disclo-*
15 *sure of such information is permitted under the*
16 *Federal regulations (concerning the privacy of*
17 *individually identifiable health information)*
18 *promulgated under section 264(c) of the Health*
19 *Insurance Portability and Accountability Act of*
20 *1996 (42 U.S.C. 1320d–2 note).”.*

21 (d) *TREATMENT OF CERTAIN COMPLAINTS FOR PUR-*
22 *POSES OF QUALITY OR PERFORMANCE ASSESSMENT.*—*Sec-*
23 *tion 1860D–42 of the Social Security Act (42 U.S.C.*
24 *1395w–152) is amended by adding at the end the following*
25 *new subsection:*

1 “(d) *TREATMENT OF CERTAIN COMPLAINTS FOR PUR-*
 2 *POSES OF QUALITY OR PERFORMANCE ASSESSMENT.—In*
 3 *conducting a quality or performance assessment of a PDP*
 4 *sponsor, the Secretary shall develop or utilize existing*
 5 *screening methods for reviewing and considering com-*
 6 *plaints that are received from enrollees in a prescription*
 7 *drug plan offered by such PDP sponsor and that are com-*
 8 *plaints regarding the lack of access by the individual to*
 9 *prescription drugs due to a drug management program for*
 10 *at-risk beneficiaries.”.*

11 (e) *GAO STUDIES AND REPORTS.—*

12 (1) *STUDIES.—The Comptroller General of the*
 13 *United States shall conduct a study on each of the fol-*
 14 *lowing:*

15 (A) *The implementation of the amendments*
 16 *made by this section.*

17 (B) *The effectiveness of the at-risk bene-*
 18 *ficiaries for prescription drug abuse drug man-*
 19 *agement programs authorized by section 1860D–*
 20 *4(c)(5) of the Social Security Act (42 U.S.C.*
 21 *1395w–10(c)(5)), as added by subsection (a)(1),*
 22 *including an analysis of—*

23 (i) *the impediments, if any, that im-*
 24 *pair the ability of individuals described in*
 25 *subparagraph (C) of such section 1860D–*

1 4(c)(5) to access clinically appropriate lev-
2 els of prescription drugs; and

3 (ii) the types of—

4 (I) individuals who, in the imple-
5 mentation of such section, are deter-
6 mined to be individuals described in
7 such subparagraph; and

8 (II) prescribers and pharmacies
9 that are selected under subparagraph
10 (D) of such section.

11 (2) *REPORTS*.—Not later than January 1, 2016,
12 the Comptroller General of the United States shall
13 begin work, with respect to each study described in
14 paragraph (1), on a report that describes the result of
15 such study. Upon the completion of each such report,
16 such Comptroller General shall submit the report to
17 each of the committees described in paragraph (3).

18 (3) *COMMITTEES DESCRIBED*.—The committees
19 described in this paragraph are the following:

20 (A) *The Committee on Ways and Means of*
21 *the House of Representatives.*

22 (B) *The Committee on Energy and Com-*
23 *merce of the House of Representatives.*

24 (C) *The Committee on Finance of the Sen-*
25 *ate.*

1 (D) *The Committee on Health, Education,*
 2 *Labor, and Pensions of the Senate.*

3 (E) *The Special Committee on Aging of the*
 4 *Senate.*

5 (f) *EFFECTIVE DATE.*—

6 (1) *IN GENERAL.*—*The amendments made by*
 7 *this section shall apply to prescription drug plans for*
 8 *plan years beginning on or after January 1, 2017.*

9 (2) *STAKEHOLDER MEETINGS PRIOR TO EFFEC-*
 10 *TIVE DATE.*—

11 (A) *IN GENERAL.*—*Not later than January*
 12 *1, 2016, the Secretary shall convene stakeholders,*
 13 *including individuals entitled to benefits under*
 14 *part A of title XVIII of the Social Security Act*
 15 *or enrolled under part B of such title of such*
 16 *Act, advocacy groups representing such individ-*
 17 *uals, clinicians, plan sponsors, entities delegated*
 18 *by plan sponsors, and biopharmaceutical manu-*
 19 *facturers for input regarding the topics described*
 20 *in subparagraph (B).*

21 (B) *TOPICS DESCRIBED.*— *The topics de-*
 22 *scribed in this subparagraph are the topics of—*

23 (i) *the impact on cost-sharing and en-*
 24 *surving accessibility to prescription drugs for*
 25 *enrollees in prescription drug plans of PDP*

1 *sponsors who are at-risk beneficiaries for*
2 *prescription drug abuse (as defined in*
3 *paragraph (5)(C) of section 1860D–4(c) of*
4 *the Social Security Act (42 U.S.C. 1395w–*
5 *10(c))*);

6 (ii) *the use of an expedited appeals*
7 *process under which such an enrollee may*
8 *appeal an identification of such enrollee as*
9 *an at-risk beneficiary for prescription drug*
10 *abuse under such paragraph (similar to the*
11 *processes established under the Medicare Ad-*
12 *vantage program under part C of title*
13 *XVIII of the Social Security Act that allow*
14 *an automatic escalation to external review*
15 *of claims submitted under such part)*;

16 (iii) *the types of enrollees that should*
17 *be treated as exempted individuals, as de-*
18 *scribed in clause (ii) of such paragraph*;

19 (iv) *the manner in which terms and*
20 *definitions in paragraph (5) of such section*
21 *1860D–4(c) should be applied, such as the*
22 *use of clinical appropriateness in deter-*
23 *mining whether an enrollee is an at-risk*
24 *beneficiary for prescription drug abuse as*

1 *defined in subparagraph (C) of such para-*
 2 *graph (5);*

3 *(v) the information to be included in*
 4 *the notices described in subparagraph (B) of*
 5 *such section and the standardization of such*
 6 *notices; and*

7 *(vi) with respect to a PDP sponsor*
 8 *that establishes a drug management pro-*
 9 *gram for at-risk beneficiaries under such*
 10 *paragraph (5), the responsibilities of such*
 11 *PDP sponsor with respect to the implemen-*
 12 *tation of such program.*

13 *(g) RULEMAKING.—The Secretary shall promulgate*
 14 *regulations based on the input gathered pursuant to sub-*
 15 *section (f)(2)(A).*

16 **SEC. 13. GUIDANCE ON APPLICATION OF COMMON RULE TO**
 17 **CLINICAL DATA REGISTRIES.**

18 *Not later than one year after the date of the enactment*
 19 *of this section, the Secretary of Health and Human Services*
 20 *shall issue a clarification or modification with respect to*
 21 *the application of subpart A of part 46 of title 45, Code*
 22 *of Federal Regulations, governing the protection of human*
 23 *subjects in research (and commonly known as the “Common*
 24 *Rule”), to activities, including quality improvement activi-*
 25 *ties, involving clinical data registries, including entities*

1 *that are qualified clinical data registries pursuant to sec-*
 2 *tion 1848(m)(3)(E) of the Social Security Act (42 U.S.C.*
 3 *1395w-4(m)(3)(E)).*

4 **SEC. 14. ELIMINATING CERTAIN CIVIL MONEY PENALTIES;**
 5 **GAINSHARING STUDY AND REPORT.**

6 *(a) ELIMINATING CIVIL MONEY PENALTIES FOR IN-*
 7 *DUCEMENTS TO PHYSICIANS TO LIMIT SERVICES THAT ARE*
 8 *NOT MEDICALLY NECESSARY.—*

9 *(1) IN GENERAL.—Section 1128A(b)(1) of the*
 10 *Social Security Act (42 U.S.C. 1320a-7a(b)(1)) is*
 11 *amended by inserting “medically necessary” after*
 12 *“reduce or limit”.*

13 *(2) EFFECTIVE DATE.—The amendment made by*
 14 *paragraph (1) shall apply to payments made on or*
 15 *after the date of the enactment of this Act.*

16 *(b) GAINSHARING STUDY AND REPORT.—Not later*
 17 *than 12 months after the date of the enactment of this Act,*
 18 *the Secretary of Health and Human Services, in consulta-*
 19 *tion with the Inspector General of the Department of Health*
 20 *and Human Services, shall submit to Congress a report*
 21 *with options for amending existing fraud and abuse laws*
 22 *in, and regulations related to, titles XI and XVIII of the*
 23 *Social Security Act (42 U.S.C. 301 et seq.), through excep-*
 24 *tions, safe harbors, or other narrowly targeted provisions,*
 25 *to permit gainsharing arrangements that otherwise would*

1 *be subject to the civil money penalties described in para-*
2 *graphs (1) and (2) of section 1128A(b) of such Act (42*
3 *U.S.C. 1320a–7a(b)), or similar arrangements between*
4 *physicians and hospitals, and that improve care while re-*
5 *ducing waste and increasing efficiency. The report shall—*

6 (1) *consider whether such provisions should*
7 *apply to ownership interests, compensation arrange-*
8 *ments, or other relationships;*

9 (2) *describe how the recommendations address*
10 *accountability, transparency, and quality, including*
11 *how best to limit inducements to stint on care, dis-*
12 *charge patients prematurely, or otherwise reduce or*
13 *limit medically necessary care; and*

14 (3) *consider whether a portion of any savings*
15 *generated by such arrangements (as compared to an*
16 *historical benchmark or other metric specified by the*
17 *Secretary to determine the impact of delivery and*
18 *payment system changes under such title XVIII on*
19 *expenditures made under such title) should accrue to*
20 *the Medicare program under title XVIII of the Social*
21 *Security Act.*

1 **SEC. 15. MODIFICATION OF MEDICARE HOME HEALTH SUR-**
 2 **ETY BOND CONDITION OF PARTICIPATION**
 3 **REQUIREMENT.**

4 *Section 1861(o)(7) of the Social Security Act (42*
 5 *U.S.C. 1395x(o)(7)) is amended to read as follows:*

6 *“(7) provides the Secretary with a surety bond—*

7 *“(A) in a form specified by the Secretary*
 8 *and in an amount that is not less than the min-*
 9 *imum of \$50,000; and*

10 *“(B) that the Secretary determines is com-*
 11 *mensurate with the volume of payments to the*
 12 *home health agency; and”.*

13 **SEC. 16. OVERSIGHT OF MEDICARE COVERAGE OF MANUAL**
 14 **MANIPULATION OF THE SPINE TO CORRECT**
 15 **SUBLUXATION.**

16 *(a) IN GENERAL.—Section 1833 of the Social Security*
 17 *Act (42 U.S.C. 1395l) is amended by adding at the end*
 18 *the following new subsection:*

19 *“(z) MEDICAL REVIEW OF SPINAL SUBLUXATION*
 20 *SERVICES.—*

21 *“(1) IN GENERAL.—The Secretary shall imple-*
 22 *ment a process for the medical review (as described in*
 23 *paragraph (2)) of treatment by a chiropractor de-*
 24 *scribed in section 1861(r)(5) by means of manual ma-*
 25 *nipulation of the spine to correct a subluxation (as*
 26 *described in such section) of an individual who is en-*

1 *rolled under this part and apply such process to such*
 2 *services furnished on or after January 1, 2017, focus-*
 3 *ing on services such as—*

4 *“(A) services furnished by a such a chiro-*
 5 *practor whose pattern of billing is aberrant com-*
 6 *pared to peers; and*

7 *“(B) services furnished by such a chiro-*
 8 *practor who, in a prior period, has a services de-*
 9 *nial percentage in the 85th percentile or greater,*
 10 *taking into consideration the extent that service*
 11 *denials are overturned on appeal.*

12 *“(2) MEDICAL REVIEW.—*

13 *“(A) PRIOR AUTHORIZATION MEDICAL RE-*
 14 *VIEW.—*

15 *“(i) IN GENERAL.—Subject to clause*
 16 *(ii), the Secretary shall use prior authoriza-*
 17 *tion medical review for services described in*
 18 *paragraph (1) that are furnished to an in-*
 19 *dividual by a chiropractor described in sec-*
 20 *tion 1861(r)(5) that are part of an episode*
 21 *of treatment that includes more than 12*
 22 *services. For purposes of the preceding sen-*
 23 *tence, an episode of treatment shall be deter-*
 24 *mined by the underlying cause that justifies*

1 *the need for services, such as a diagnosis*
2 *code.*

3 “(ii) *ENDING APPLICATION OF PRIOR*
4 *AUTHORIZATION MEDICAL REVIEW.—The*
5 *Secretary shall end the application of prior*
6 *authorization medical review under clause*
7 *(i) to services described in paragraph (1) by*
8 *such a chiropractor if the Secretary deter-*
9 *mines that the chiropractor has a low de-*
10 *denial rate under such prior authorization*
11 *medical review. The Secretary may subse-*
12 *quently reapply prior authorization medical*
13 *review to such chiropractor if the Secretary*
14 *determines it to be appropriate and the chi-*
15 *ropractor has, in the time period subsequent*
16 *to the determination by the Secretary of a*
17 *low denial rate with respect to the chiro-*
18 *practor, furnished such services described in*
19 *paragraph (1).*

20 “(iii) *EARLY REQUEST FOR PRIOR AU-*
21 *THORIZATION REVIEW PERMITTED.—Noth-*
22 *ing in this subsection shall be construed to*
23 *prevent such a chiropractor from requesting*
24 *prior authorization for services described in*
25 *paragraph (1) that are to be furnished to*

1 *an individual before the chiropractor fur-*
 2 *nishes the twelfth such service to such indi-*
 3 *vidual for an episode of treatment.*

4 “(B) *TYPE OF REVIEW.*—*The Secretary*
 5 *may use pre-payment review or post-payment*
 6 *review of services described in section 1861(r)(5)*
 7 *that are not subject to prior authorization med-*
 8 *ical review under subparagraph (A).*

9 “(C) *RELATIONSHIP TO LAW ENFORCEMENT*
 10 *ACTIVITIES.*—*The Secretary may determine that*
 11 *medical review under this subsection does not*
 12 *apply in the case where potential fraud may be*
 13 *involved.*

14 “(3) *NO PAYMENT WITHOUT PRIOR AUTHORIZA-*
 15 *TION.*—*With respect to a service described in para-*
 16 *graph (1) for which prior authorization medical re-*
 17 *view under this subsection applies, the following shall*
 18 *apply:*

19 “(A) *PRIOR AUTHORIZATION DETERMINA-*
 20 *TION.*—*The Secretary shall make a determina-*
 21 *tion, prior to the service being furnished, of*
 22 *whether the service would or would not meet the*
 23 *applicable requirements of section 1862(a)(1)(A).*

24 “(B) *DENIAL OF PAYMENT.*—*Subject to*
 25 *paragraph (5), no payment may be made under*

1 *this part for the service unless the Secretary de-*
2 *termines pursuant to subparagraph (A) that the*
3 *service would meet the applicable requirements of*
4 *such section 1862(a)(1)(A).*

5 “(4) *SUBMISSION OF INFORMATION.*—*A chiro-*
6 *practor described in section 1861(r)(5) may submit*
7 *the information necessary for medical review by fax,*
8 *by mail, or by electronic means. The Secretary shall*
9 *make available the electronic means described in the*
10 *preceding sentence as soon as practicable.*

11 “(5) *TIMELINESS.*—*If the Secretary does not*
12 *make a prior authorization determination under*
13 *paragraph (3)(A) within 14 business days of the date*
14 *of the receipt of medical documentation needed to*
15 *make such determination, paragraph (3)(B) shall not*
16 *apply.*

17 “(6) *APPLICATION OF LIMITATION ON BENE-*
18 *FICIARY LIABILITY.*—*Where payment may not be*
19 *made as a result of the application of paragraph*
20 *(2)(B), section 1879 shall apply in the same manner*
21 *as such section applies to a denial that is made by*
22 *reason of section 1862(a)(1).*

23 “(7) *REVIEW BY CONTRACTORS.*—*The medical*
24 *review described in paragraph (2) may be conducted*
25 *by medicare administrative contractors pursuant to*

1 *section 1874A(a)(4)(G) or by any other contractor de-*
 2 *termined appropriate by the Secretary that is not a*
 3 *recovery audit contractor.*

4 “(8) *MULTIPLE SERVICES.*—*The Secretary shall,*
 5 *where practicable, apply the medical review under*
 6 *this subsection in a manner so as to allow an indi-*
 7 *vidual described in paragraph (1) to obtain, at a sin-*
 8 *gle time rather than on a service-by-service basis, an*
 9 *authorization in accordance with paragraph (3)(A)*
 10 *for multiple services.*

11 “(9) *CONSTRUCTION.*—*With respect to a service*
 12 *described in paragraph (1) that has been affirmed by*
 13 *medical review under this subsection, nothing in this*
 14 *subsection shall be construed to preclude the subse-*
 15 *quent denial of a claim for such service that does not*
 16 *meet other applicable requirements under this Act.*

17 “(10) *IMPLEMENTATION.*—

18 “(A) *AUTHORITY.*—*The Secretary may im-*
 19 *plement the provisions of this subsection by in-*
 20 *terim final rule with comment period.*

21 “(B) *ADMINISTRATION.*—*Chapter 35 of title*
 22 *44, United States Code, shall not apply to med-*
 23 *ical review under this subsection.”.*

24 *(b) IMPROVING DOCUMENTATION OF SERVICES.*—

1 (1) *IN GENERAL.*—*The Secretary of Health and*
2 *Human Services shall, in consultation with stake-*
3 *holders (including the American Chiropractic Asso-*
4 *ciation) and representatives of medicare administra-*
5 *tive contractors (as defined in section 1874A(a)(3)(A)*
6 *of the Social Security Act (42 U.S.C. 1395kk-*
7 *1(a)(3)(A))), develop educational and training pro-*
8 *grams to improve the ability of chiropractors to pro-*
9 *vide documentation to the Secretary of services de-*
10 *scribed in section 1861(r)(5) in a manner that dem-*
11 *onstrates that such services are, in accordance with*
12 *section 1862(a)(1) of such Act (42 U.S.C.*
13 *1395y(a)(1)), reasonable and necessary for the diag-*
14 *nosis or treatment of illness or injury or to improve*
15 *the functioning of a malformed body member.*

16 (2) *TIMING.*—*The Secretary shall make the edu-*
17 *cational and training programs described in para-*
18 *graph (1) publicly available not later than January*
19 *1, 2016.*

20 (3) *FUNDING.*—*The Secretary shall use funds*
21 *made available under section 1893(h)(10) of the So-*
22 *cial Security Act (42 U.S.C. 1395ddd(h)(10)), as*
23 *added by section 6, to carry out this subsection.*

24 (c) *GAO STUDY AND REPORT.*—

1 (1) *STUDY.*—*The Comptroller General of the*
 2 *United States shall conduct a study on the effective-*
 3 *ness of the process for medical review of services fur-*
 4 *nished as part of a treatment by means of manual*
 5 *manipulation of the spine to correct a subluxation*
 6 *implemented under subsection (z) of section 1833 of*
 7 *the Social Security Act (42 U.S.C. 1395l), as added*
 8 *by subsection (a). Such study shall include an anal-*
 9 *ysis of—*

10 (A) *aggregate data on—*

11 (i) *the number of individuals, chiro-*
 12 *practors, and claims for services subject to*
 13 *such review; and*

14 (ii) *the number of reviews conducted*
 15 *under such section; and*

16 (B) *the outcomes of such reviews.*

17 (2) *REPORT.*—*Not later than four years after the*
 18 *date of enactment of this Act, the Comptroller General*
 19 *shall submit to Congress a report containing the re-*
 20 *sults of the study conducted under paragraph (1), in-*
 21 *cluding recommendations for such legislation and ad-*
 22 *ministrative action with respect to the process for*
 23 *medical review implemented under subsection (z) of*
 24 *section 1833 of the Social Security Act (42 U.S.C.*

1 1395l) as the Comptroller General determines appro-
 2 priate.

3 **SEC. 17. NATIONAL EXPANSION OF PRIOR AUTHORIZATION**

4 **MODEL FOR REPETITIVE SCHEDULED NON-**
 5 **EMERGENT AMBULANCE TRANSPORT.**

6 (a) *INITIAL EXPANSION.*—

7 (1) *IN GENERAL.*—In implementing the model
 8 described in paragraph (2) proposed to be tested
 9 under subsection (b) of section 1115A of the Social
 10 Security Act (42 U.S.C. 1315a), the Secretary of
 11 Health and Human Services shall revise the testing
 12 under subsection (b) of such section to cover, effective
 13 not later than January 1, 2016, States located in
 14 medicare administrative contractor (MAC) regions L
 15 and 11 (consisting of Delaware, the District of Co-
 16 lumbia, Maryland, New Jersey, Pennsylvania, North
 17 Carolina, South Carolina, West Virginia, and Vir-
 18 ginia).

19 (2) *MODEL DESCRIBED.*—The model described in
 20 this paragraph is the testing of a model of prior au-
 21 thorization for repetitive scheduled non-emergent am-
 22 bulance transport proposed to be carried out in New
 23 Jersey, Pennsylvania, and South Carolina.

24 (3) *FUNDING.*—The Secretary shall allocate
 25 funds made available under section 1115A(f)(1)(B) of

1 *the Social Security Act (42 U.S.C. 1315a(f)(1)(B)) to*
 2 *carry out this subsection.*

3 *(b) NATIONAL EXPANSION.—Section 1834(l) of the So-*
 4 *cial Security Act (42 U.S.C. 1395m(l)) is amended by add-*
 5 *ing at the end the following new paragraph:*

6 *“(16) PRIOR AUTHORIZATION FOR REPETITIVE*
 7 *SCHEDULED NON-EMERGENT AMBULANCE TRANS-*
 8 *PORTS.—*

9 *“(A) IN GENERAL.—Beginning January 1,*
 10 *2017, if the expansion to all States of the model*
 11 *of prior authorization described in paragraph*
 12 *(2) of section 18(a) of the Protecting the Integ-*
 13 *egrity of Medicare Act of 2015 meets the require-*
 14 *ments described in paragraphs (1) through (3) of*
 15 *section 1115A(c), then the Secretary shall expand*
 16 *such model to all States.*

17 *“(B) FUNDING.—The Secretary shall use*
 18 *funds made available under section 1893(h)(10)*
 19 *to carry out this paragraph.*

20 *“(C) CLARIFICATION REGARDING BUDGET*
 21 *NEUTRALITY.—Nothing in this paragraph may*
 22 *be construed to limit or modify the application*
 23 *of section 1115A(b)(3)(B) to models described in*
 24 *such section, including with respect to the model*
 25 *described in subparagraph (A) and expanded be-*

1 ginning on January 1, 2017, under such sub-
2 paragraph.”.

3 **SEC. 18. REPEALING DUPLICATIVE MEDICARE SECONDARY**
4 **PAYOR PROVISION.**

5 (a) *IN GENERAL.*—Section 1862(b)(5) of the Social Se-
6 curity Act (42 U.S.C. 1395y(b)(5)) is amended by inserting
7 at the end the following new subparagraph:

8 “(E) *END DATE.*—The provisions of this
9 paragraph shall not apply to information re-
10 quired to be provided on or after July 1, 2016.”.

11 (b) *EFFECTIVE DATE.*—The amendment made by sub-
12 section (a) shall take effect on the date of the enactment
13 of this Act and shall apply to information required to be
14 provided on or after January 1, 2016.

15 **SEC. 19. PLAN FOR EXPANDING DATA IN ANNUAL CERT RE-**
16 **PORT.**

17 Not later than June 30, 2015, the Secretary of Health
18 and Human Services shall submit to the Committee on Fi-
19 nance of the Senate, and to the Committees on Energy and
20 Commerce and on Ways and Means of the House of Rep-
21 resentatives—

22 (1) a plan for including, in the annual report of
23 the Comprehensive Error Rate Testing (CERT) pro-
24 gram, data on services (or groupings of services)
25 (other than medical visits) paid under the physician

1 *fee schedule under section 1848 of the Social Security*
 2 *Act (42 U.S.C. 1395w-4) where the fee schedule*
 3 *amount is in excess of 250 dollars and where the error*
 4 *rate is in excess of 20 percent; and*

5 *(2) to the extent practicable by such date, spe-*
 6 *cific examples of services described in paragraph (1).*

7 **SEC. 20. REMOVING FUNDS FOR MEDICARE IMPROVEMENT**

8 **FUND ADDED BY IMPACT ACT OF 2014.**

9 *Section 1898(b)(1) of the Social Security Act (42*
 10 *U.S.C. 1395iii(b)(1)), as amended by section 3(e)(3) of the*
 11 *IMPACT Act of 2014 (Public Law 113-185), is amended*
 12 *by striking “\$195,000,000” and inserting “\$0”.*

13 **SEC. 21. RULE OF CONSTRUCTION.**

14 *Except as explicitly provided in this Act, nothing in*
 15 *this Act, including the amendments made by this Act, shall*
 16 *be construed as preventing the use of notice and comment*
 17 *rulemaking in the implementation of the provisions of, and*
 18 *the amendments made by, this Act.*

Union Calendar No. 29

114TH CONGRESS
1ST Session

H. R. 1021

[Report No. 114-46, Part I]

A BILL

To amend title XVIII of the Social Security Act to improve the integrity of the Medicare program, and for other purposes.

MARCH 18, 2015

Reported from the Committee on Ways and Means with an amendment

MARCH 18, 2015

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed